

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**WILLIAM EWING, et al.,**

Plaintiffs,

v.

**COUNTRY MUTUAL  
INSURANCE COMPANY, et al.,**

Defendants.

No. 2:11-cv-00968-SU

AMENDED OPINION AND ORDER

**MOSMAN, J.,**

On April 25, 2012, Magistrate Judge Sullivan issued her Findings and Recommendation (“F&R”) [20] in the above-captioned case recommending that I grant in part and deny in part defendant Country Mutual Insurance Company’s Motion to Dismiss [7]. Neither party filed objections.

### STANDARD OF REVIEW

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review, I agree with Judge Sullivan's recommendation, and I ADOPT the F&R [20] as my own opinion. Defendant Country Mutual Insurance Company's Motion to Dismiss [7] is GRANTED IN PART AND DENIED IN PART. Plaintiff shall have 60 days to file an amended complaint.

IT IS SO ORDERED.

DATED this 12 day of May, 2012.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Court